



U. S. Fish and Wildlife Service

Proposed Rule to designate a Manatee Protection Area in Florida

Background

Manatees are a federally protected under both the Endangered Species Act and Marine Mammal Protection Act. Currently, collisions with watercraft probably constitute the greatest human-caused threat to the species. Historically, these collisions are responsible for about 25 percent of all manatee deaths and about 80 percent of all human-caused mortality in manatees.

In November 2002, a judge in Florida's 20th Judicial Circuit Court ruled that five State-designated manatee speed zones were unconstitutional due to flaws in the process used to establish the zones. The Florida Fish and Wildlife Conservation Commission subsequently filed its intent to appeal the judge's ruling and was granted a stay of the State zones ruling.

In December 2003, the Lee County Circuit Court of Appeals refused to hear the State's appeal, but granted a continuance of stay of the lower court ruling pending the Commission's next appeal.

Issue

In January 2004, the 2nd District Court in Lakeland, Florida, denied the State's request for a continuance of the stay; thus removing the State protections in five critical manatee protection areas.

In response to the Court's denial of the stay, the Service announced that it considered these areas inadequately protected. As a result, the U.S. Army Corps of Engineers denied watercraft access facility permits in these five areas.

In February-March, the Florida Fish and Wildlife Conservation Commission recovered two manatee carcasses near Pine Island. Subsequent necropsies revealed that the animals died of injuries suffered from a boat collision. Aside from these two deaths, there have been at least 14 boat-related manatee deaths in these five areas since 1999.

Status

On March 2, the 2nd District Court of Appeals in Lakeland, Florida, denied the review of the Commission's case to overturn 20th Circuit Court's ruling that five State manatee speed zones in Lee County are unconstitutional. The Commission is assessing its appeal options.

As a result of the Court's decision and based on the best available data, the Service exercised its authority under the Federal Endangered Species Act and the Marine Mammal Protection Act and used an emergency designation to establish the Pine Island-Estero Bay Manatee Refuge. This manatee refuge corresponds exactly to the previous State designations in these areas. Currently the areas are under the protection of a second emergency designation, scheduled to expire December 6, 2004.

Questions?

The regulation and additional information on this action is available on the Service's web site at verobeach.fws.gov, or may be requested by writing via e-mail to verobeach@fws.gov; by faxing your request to 772-562-4288; or by letter to USFWS, Attn: Proposed MPA Rule, 1339 20th Street, Vero Beach, FL 32960. If you have specific questions or need special assistance, please contact the Service's South Florida Field Office at 772-562-3909, extension 248.